

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

OP.No. 16133 of 1997(U)

PETITIONER:

M. AHAMED SALIM,
LIBAS MANZIL,
KANDALA,
KARINGAL DESOM, MARANALLOOR VILLAGE,
NEYYATTINKARA TALUK,
THIRUVANANTHAPURAM.

BY ADV. SRI.B.KRISHNA MANI
SRI.K.SUBASH CHANDRA BOSE
SRI.V.PREMCHAND

RESPONDENTS:

1. THE KERALA STATE ROAD TRANSPORT CORPORATION
REPRESENTED BY ITS MANAGING DIRECTOR,
THIRUVANANTHAPURAM.
2. THE MANAGING DIRECTOR, KERALA STATE ROAD
TRANSPORT CORPORATION, CHIEF OFFICE,
THIRUVANANTHAPURAM.
3. THE EXECUTIVE DIRECTOR (V&S)
KERALA STATE ROAD TRANSPORT CORPORATION,
THIRUVANANTHAPURAM.
4. THE APPELLATE TRIBUNAL, KERALA STATE ROAD
TRANSPORT CORPORATION, THIRUVANANTHAPURAM.

BY ADV. SRI.T.RAVIKUMAR,SC,KSRTC
SHRI.JOHNSON P.JOHN, SC, KSRTC

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 16/11/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

O.P. NO. 16133/1997

: 2 :

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF ORDER NO. VLC2-07344/89 DATED 28-09-1995 OF 3RD RESPONDENT.

EXT.P2: TRUE COPY OF ORDER NO. R. DIS.84226/95 DATED 16.2.1996 OF 2ND RESPONDENT.

EXT.P3: TRUE COPY OF ORDER DATED 11.10.1996 OF 4TH RESPONDENT.

EXT.P4: TRUE COPY OF COMMUNICATION DATED 22.11.1996 FROM 2ND RESPONDENT.

EXT.P5: TRUE COPY OF JUDGMENT IN SC 32/92 SESSIONS COURT QUILON DATED 11.2.1997.

/True Copy/

P.A to Judge.

THOTTATHIL B. RADHAKRISHNAN , J
=====

O.P. NO. 16133 OF 1997

=====

Dated this the 16th day of November, 2007.

JUDGMENT

The petitioner challenges Exts.P3 and P4. He was a Tinker in Kerala State Road Transport Corporation. Disciplinary proceedings were initiated against him on the ground that he had entered into a conspiracy and had attempted to print counterfeit currency. The enquiry officer found the delinquent guilty. He was removed the petitioner from service. His appeal was dismissed by the Managing Director. In his revision, the Appellate Tribunal held that though the petitioner stood charge sheeted by the police in connection with the alleged crime, there was no documentary evidence to prove the charges in the domestic enquiry. As a result, the Tribunal set aside the order of dismissal and ordered reinstatement of the petitioner. But, there was an order that he need not be paid back wages. The period during which he was out of service was directed to be treated as duty for all service benefits following Ext.P3. He was admitted to duty.

2. By Ext.P5, the Court of Sessions held that the accused persons, who stood trial, including the petitioner, who was the 7th accused, are not guilty.

3. The imposition of penalty on the petitioner, by the employer, was not on the ground of conviction in the criminal case, but, on an independent domestic enquiry based on the involvement in the criminal case. The Tribunal having concluded that the enquiry report as unsustainable, there was no reasonable ground on which back wages could have been refused particularly when the disciplinary proceedings was not attributable in ground referable to misconduct in relation to the petitioner's employment as a Tinker. The only ground which form the foundation of the disciplinary proceedings have culminated in Ext.A5 clearing the writ petitioner of all charges which would show that he has got an order of acquittal free of blemish after standing trial in the criminal court. For the aforesaid reasons, the impugned Ext.P3 is set aside to the extent it refuses back wages to the petitioner. Ext.P4 will also stand modified.

4. In the result, it is declared that the reinstatement of the petitioner on the strength of Ext.P3 will be coupled with his entitlement for back wages and all other service benefits. However, having regard to the financial status of the 1st respondent employer, there will be no order for interest on such amount. The writ petition is allowed to the above extent. No costs.

**THOTTATHIL B. RADHAKRISHNAN,
JUDGE.**

rv

O.P. No. 16133 of 1997

: 4 :

THOTTATHIL B. RADHAKRISHNAN, J

O.P. NO. 16133 of 1997

16th day of November, 2007

JUDGMENT

O.P. No. 16133 of 1997

: 5 :